IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

CRP.No. 682 of 2006

OP(ELE.)61/2002 OF ADDL.DISTRICT COURT-I,MAVELIKKARA
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REVN. PETITIONER/1ST RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM, REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENTS/PETITIONERS

K.G.SOBHA,
GOWRI BHAVANAM, MUTTOM P.O., CHEPPAD.

BY ADV. SRI.B.RENJITHKUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.682 OF 2006

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Dated this the 5th day of December 2007

ORDER

This revision petition is preferred against the award of the Addl.District Court-I, Mavelikkara in O.P.(Ele.)No.61 of 2002. By the said award, the court has awarded enhanced compensation of Rs.12,575/-, i.e. Rs.10,075/- for the value of the trees cut and Rs.2,500/- towards diminution in land value. A perusal of the award itself would reveal that no convincing evidence had been established before court and the court has taken into consideration the other factors to decide the compensation and had relied on the dictum laid down in the decision reported in ***Kumba Amma v. K.S.E.B.(2000(1) KLT 542).*** In the decision reported in ***KSEB v. Livisha(2007(3) KLT 1(SC)*** the Apex Court has held that each case has to be considered on the facts and circumstances of the said case and held as follows:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would

> be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case.

2. In the light of the above principles laid down by Apex Court and especially considering the fact that no material is available before the court below, I find that a reconsideration of the entire matter is necessary for a proper disposal of the case.

Therefore, I set aside the judgment passed by the court below and remit the case to the same court with a direction to the court below to reconsider the entire matter afresh after affording equal opportunity to both sides to adduce both documentary as well as oral evidence in support of their contentions and dispose of the matter in the light of the principles laid down in 2007(3) KLT 1. Parties are directed to appear before the court below on 15.1.2008.

C.R.P. is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-